

CERTIFIED

DEC 08 1987

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED].

The purposes for which you were formed briefly stated are to provide for and to administer the operation, management, maintenance and care of [REDACTED], a condominium project to be established in accordance with the [REDACTED] Uniform Condominium Act.

Homeowners Association dues will be collected for the general maintenance of all common areas in the building complex.

Section 501(c)(3) of the Code provides for the exemption from Federal Income Tax of corporations organized and operated exclusively for religious, charitable, literary, scientific, and educational purposes; no part of the net earnings of which inures to any private shareholder or individual.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

Section 1.501(c)(3)-1(e)(1) of the Income Tax Regulations provides that "an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-(b)(4) of the Income Tax Regulations provides that an organization is not organized exclusively for one or more purposes, unless its assets, upon dissolution, are dedicated to 501(c)(3) purposes.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Date	12/2/86	10/22/86	12/1/86	12/1/86	12/2/86	FEB 10 1987

"(b) Operational Test. (1) Primary activities. An organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. (2) Distribution of earnings. An organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals..."

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in Section 501(c)(3), the organization must be one that is both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either organizational or the operational test it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that "an organization will be regarded as 'operated exclusively' for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose."

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized and operated exclusively for exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization seeking exemption under Section 501(c)(3) to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Section 501(c)(4) of the Internal Revenue Code grants exemption to civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Rev. Rul. 74-17, 1979-1 C.B. 130 holds that an organization formed by the unit owners of a condominium housing project to provide for the management, maintenance and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under Section 501(c)(4) of the Code.

We have concluded that you are not operated exclusively as a charitable organization described in Section 501(c)(3) of the Code because you are operated essentially for the private benefit of your members.

Accordingly, we have concluded that you are not entitled to recognition of exemption from Federal Income Tax under Section 501(c)(3) of the Code, since you are not organized and operated exclusively for charitable, religious, or other exempt purposes within the meaning of Section 501(c)(3).

We have also considered exempt status for your organization under Section 501(c)(4). Based upon the above Rev. Rul. 74-17, you do not qualify as a social welfare organization under Section 501(c)(4).

You are required to file Federal Income Tax Returns on Form 1120 or 1120-B.

Contributions made to you are not deductible by the donors as charitable contributions as defined in Section 170(c) of the Code.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 992, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7425(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service".

Please keep this determination letter in your permanent records.

If you agree with this determination, please sign and return the enclosed Form 6018.

Sincerely yours,


District Director

Enclosures:

Pub. 892
Form 6018